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# Medicare State Operations Manual Provider Certification

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Department of Health and  
Human Services (DHHS)  
HEALTH CARE FINANCING  
ADMINISTRATION (HCFA)

**Transmittal 24**

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<u>HEADER SECTION NUMBERS</u>	<u>PAGES TO INSERT</u>	<u>PAGES TO DELETE</u>
2042 - 2044	2-27 - 2-28 (2 pp.)	2-27 - 2-28 (2 pp.)
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Exhibit 15 (Cont.) AND Exhibit 21	9-47 AND 9-50 (2 pp.)	9-47 - 9-50 (4 pp.)

**NEW/REVISED MATERIAL--EFFECTIVE DATE: MARCH 19, 2001**

Section 2042, Psychiatric Hospitals, is being changed to delete the reference to Exhibit 16, which no longer applies to Psychiatric Hospitals.

Section 2700, Conducting Initial Surveys and Scheduled Resurveys, is being changed to reflect the new policy of unannounced surveys for Psychiatric Hospital surveys.

Exhibit 16, Model Letter to Psychiatric Hospitals, is being **deleted** because it no longer applies. Psychiatric Hospital surveys are unannounced.

**DISCLAIMER:** The revision date and transmittal number only apply to the redlined material. All other material was previously published in the manual and is only being reprinted.

#### 2041. POST-SURVEY PROCEDURES FOR SWING-BED HOSPITALS

For swing-bed hospitals in the 49 or fewer bed category, the SA transmits its recommendations to the RO on Form HCFA-1539, Medicare and Medicaid Certification and Transmittal.

For swing-bed hospitals in the 50 - 99 bed category, the SA forwards to the RO:

- o Request for Approval as Hospital Provider of Extended Care Services (Swing-bed) in the Medicare and Medicaid Programs, Form HCFA-605 (exhibit 81);
- o Medicare/Medicaid Hospital Swing-Bed Survey Report, Form HCFA-1537C;
- o A list of SNFs with which the hospital has availability agreements; and
- o Medicare and Medicaid Certification and Transmittal, Form HCFA-1539.

To receive swing-bed approval, a hospital in the 50 - 99 bed category must be found in compliance with the provisions of 42 CFR Part 482.66, the special requirements for hospitals in the 50 - 99 bed category (see §2036.1) and the specific skilled nursing requirements in 42 CFR 483 that apply to swing-bed hospitals. (See Appendix T.)

Effective dates for all swing-bed approvals are based on the provisions at 42 CFR Part 489.13 which state that the agreements will be effective on the date the onsite survey is completed if all Federal requirements are met on the date of the survey. (See §2040 for retroactive approval for 50-59 beds.) If the provider fails to meet any of the requirements, the approval will be effective on the earlier of the following dates:

- o The date on which the hospital meets all requirements, or
- o The date the hospital submits a correction plan acceptable to HCFA.

If there is a dispute regarding the geographic region between a SNF and the swing-bed hospital, in addition to the above materials, the SA forwards to the HCFA RO:

- o A copy of the documentation provided by the hospital and the SNF(s) supporting their positions; and
- o The SA's recommendation regarding the dispute.

2041.1 RO Approval Procedures for Swing-Bed Approval--The RO prepares a formal determination and notifies the hospital of its approval or denial. For hospitals in the 50-99 bed category, the approval letter must stress notification and transfer obligations. (See Exhibit 162.) At the time the RO releases the approval letter, it informs all the SNFs in the geographic region of their obligation to inform the swing-bed hospital of the availability of SNF beds for swing-bed patients. (See Exhibit 163.)

#### 2042. PSYCHIATRIC HOSPITALS

The statutory requirements for psychiatric hospitals are found in §1861(f) of the Act. The term psychiatric hospital means an institution which:

- o Is primarily engaged in providing, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons;
- o Satisfies the requirements of §§1861(e)(3) through (e)(9) (general hospital requirements);
- o Maintains clinical and other records on all patients as the Secretary finds necessary to determine the degree and intensity of the treatment provided to individuals entitled to hospital insurance benefits under Part A; and
- o Meets such staffing requirements as the Secretary finds necessary for the institution to carry out an active program of treatment for individuals receiving services in the institution.

In the case of an institution that satisfies the first two criteria and contains a distinct part that also satisfies the last two criteria, the distinct part is considered to be a "psychiatric hospital."

#### 2044. ACCREDITED HOSPITALS NOT DEEMED TO MEET SPECIAL CoPs

Psychiatric hospitals accredited by JCAHO under its hospital accreditation program or under its consolidated standards for adult psychiatric facilities are deemed to meet the CoPs for hospitals, with the exception of the special medical record and staffing requirements. (See §2042). Facilities accredited exclusively under the JCAHO community mental health standards, or under the consolidated standards for child and adolescent psychiatric facilities, or alcoholism and drug abuse facilities are not deemed to meet any of the CoPs. If the hospital is deemed to meet the general hospital CoPs, a complete survey is not required.

The SA completes the Medicare/Medicaid Psychiatric Hospital Survey Data, Form HCFA-724, and all other relevant survey documents (Form HCFA-2567, etc.) for the survey of accredited psychiatric hospitals.

#### 2048. DISTINCT PART PSYCHIATRIC HOSPITAL

A. General--A psychiatric hospital may elect to participate in its entirety, or it may designate a distinct part and apply for participation of that portion only.

The distinct part provisions of the law are designed to permit the participation of those identifiable units or sections of psychiatric hospitals that are adequately staffed, supervised, and equipped to provide active treatment on a continuing basis. The participating distinct part must meet the standards and have appropriate treatment services available. Patients in the distinct part must be provided treatment which may reasonably be expected to improve their condition.

The provisions for certification of distinct parts of psychiatric hospitals apply only where the entire institution is primarily for the treatment of mental illness. Thus, a psychiatric wing or building of a general hospital or of a large medical center or complex may not be certified as a "distinct part psychiatric hospital." Such facilities are included in the certification of the institution of which they are an integral part.

B. Physical Identification--To qualify for participation as a distinct part psychiatric hospital, the distinct part must be physically identifiable; that is, a group of beds specifically for patients who need active treatment. The section(s) or unit(s) to be included in the distinct part certification must be clearly defined.

Although the distinct part must be identified, it need not be confined to a single location within the hospital. For example, it may consist of several floors or wards, a specific group of beds in a single building, or floors or wards or a specific group of beds located in several different buildings.

Federal or State law. A PRO must disclose confidential information upon request, or may do so without a request, to a State or Federal body responsible for professional licensure of a practitioner or an institution.

Information about an institution that does not identify individuals is not confidential information and may be disclosed. However, 42 CFR Part 476.105(b)(2) requires disclosure to conform with notice of disclosure requirements. In general, a PRO must notify a practitioner or institution of its intent to disclose information to a licensing or certification body and provide the practitioner or institution with a copy of the information it will disclose at least 30 calendar days in advance.

When disclosing the information, the PRO includes any comments submitted by the practitioner or institution if they were received prior to disclosure, or forwards comments separately if received after disclosure. Recipients of confidential PRO information are prohibited from disclosing the information unless specifically provided for in Federal regulation. For example, in accordance with 42 CFR Part 476.107(e), if the PRO acquires information from a hospital and provides the information to a licensing body that is authorized to acquire the information directly from the hospital, the licensing body may then disclose the information in accordance with the hospital's redisclosure rules.

The SA should work with PROs to identify and obtain information that will be helpful to it in the survey and certification process. If further information or assistance is needed, including name and address of the area PRO, the SA contacts the RO.

E. Action When a PRO Ceases Utilization Review.--The SA instructs hospitals and SNFs to forward a copy of their UR plan to it within 90 days of a PRO's cessation of review activity in that area. If the plan does not meet the requirements, the SA returns it for necessary revisions.

F. Including UR in Next Scheduled Resurvey.--The SA conducts a brief review of UR activities during the next regularly scheduled survey of the institution to verify that the UR plan is in place and functioning. For accredited hospitals where surveys are not regularly performed, the SA instructs the hospitals to send it copies of the minutes of their UR committee's meetings (or a summary or synopsis of the minutes). The SA reviews the current UR plan against the regulations themselves (there is no UR Survey Report at the present time) to verify that the plan meets the applicable requirements and reviews the institution's conduct of UR activities against that written plan.

The SA records any UR deficiencies and plans of correction, after all other deficiencies have been recorded on the Form HCFA-2567. (These deficiencies will not be recorded in MMACS.)

The SA records the status of the institution's UR compliance in the "Remarks" portion of the Certification and Transmittal, Form HCFA-1539, e.g., name of facility is in compliance with UR requirements," or "Acceptable Plan of Correction for UR has been submitted."

### The Survey Process

#### 2700. CONDUCTING INITIAL SURVEYS AND SCHEDULED RESURVEYS

A. Unannounced Surveys.--It is HCFA policy to have unannounced surveys for all providers (including psychiatric hospitals) and suppliers (other than hospitals and laboratories), except as indicated. Sections 1819(g)(2)(A)(I), 1919(g)(2)(A)(I), and 1891(c)(1) of the Act establish Civil Money Penalties (CMPs) for any individual who notifies a SNF, NF, or HHA of a survey. (See §2008 and §7207.)

While the unannounced surveys may result in some minor survey problems, this policy represents changing public attitudes and expectations toward compliance surveys. If there is any conflict with internal State policies and practices, the SA should discuss the problem with its RO. To enhance the unpredictability of unannounced standard surveys of LTC facilities, special selection criteria are to be incorporated when State agencies are scheduling standard surveys to LTC facilities. (See §7207.)

EXCEPTION: Non-LTC facilities other than HHAs may be given advance notice (usually no more than 2 working days before an impending survey) if the following two criteria are met:

- o The facility is inaccessible via conventional travel means and it is necessary to make special or extraordinary travel arrangements; and
- o There is a high probability that the staff essential to the survey process will be absent, or the facility will be closed unless the survey is announced. (See §2008.)

B. SA Schedule For Conducting Health and Safety Resurveys.--The SA resurveys and recertifies providers/suppliers on a cyclical basis in accordance with the survey coverage levels specified in the budget call letter. Surveys of SNFs, NFs, and HHAs must be on a flexible cycle in order to reduce the "predictability" of the survey. (See §2008.D.) SNFs and NFs must be subject to a standard survey no later than 15 months after the previous survey and HHAs must be subject to a standard survey within a 36-month interval. The SA surveys ICFs/MR well in advance of the scheduled expiration date of the Time Limited Agreement (approximately 3 months) so that a timely certification can be ensured. The SA should consider geographical considerations and the scheduling of licensure visits so that coordinated visits can be made whenever possible. Change of Ownership (CHOWs) or other changes that may affect a provider's compliance status may necessitate adjustment of the SA survey interval. (See §2702.)

C. Coordinating LSC Surveys.--In most cases, the SA schedules the LSC survey to coincide with the Health survey, however the timing of the LSC survey is left to the discretion of the SAs. The SA determines whether the LSC survey is to occur before, after, or simultaneously with the health survey. If the health survey and the LSC survey are conducted at different times, data entry into OSCAR must be deferred until both surveys are completed, and the data of the latest segment of the total survey (the health portion or the LSC portion) is used for OSCAR purposes. Most States require an initial LSC survey before admitting patients prior to becoming operational. Regardless of the timing of the LSC survey, the SA should schedule it so that all certification actions are completed timely.

#### 2702. SA CONDUCTING UNSCHEDULED SURVEYS

A. Survey Due To Unanticipated Events.--It may be necessary to conduct a complete survey at an earlier date than planned. Possible reasons for this include:

- o A complaint about deteriorating standards of care;

## LIST OF EXHIBITS

- 1A Model Letter Transmitting Materials to Providers
- 1B-1 Model Letter Transmitting CLIA Application and Form HCFA-855 to Laboratories
- 1B-2 Model Letter Transmitting CLIA Application and Form HCFA-1513 to Laboratories
- 1B-3 Initial Forms Required by Laboratories for CLIA Registration
- 1C Model Letter Transmitting Forms to Persons Furnishing Portable X-Ray Services
- 1D Model Letter Transmitting Materials to Rural Health Clinics
- 1E Model Letter to Operational ESRD Facility Requesting Initial Approval
- 1F Model Letter Transmitting Title XVIII Materials to Individual Requesting to Participate as a Physical Therapist in Independent Practice
- 2 Assurance of Compliance with the Department of Health and Human Services Regulations Under Title VI of the Civil Rights Act of 1964, HHS-441
- 3 Expression of Intermediary Preference
- 4A Health Insurance Benefits Agreement, Form HCFA-1561
- 4B Health Insurance Benefits Agreement, Form HCFA-1561A (Rural Health Clinics)
- 5 Statement of Financial Solvency, Form HCFA-2572
- 6 Ownership and Control Interest Disclosure Statement, Form HCFA-1513
- 7 Statement of Deficiencies and Plan of Correction, Form HCFA-2567
- 8 Post-Certification Revisit Report, Form HCFA-2567B
- 9 Medicare/Medicaid Certification and Transmittal, Form HCFA-1539
- 10 Certification and Transmittal Spell of Illness Supplement, Form HCFA-1539A
- 12 Survey Report Form (CLIA), Form HCFA-1557

## LIST OF EXHIBITS (Cont.)

- 14A Hospital Survey Report - Crucial Data Extract, Form HCFA-1537E
- 14B Fire Safety Survey Report - Crucial Data Extract, Form HCFA-2786E
- 14C Skilled Nursing Facility and Intermediate Care Facility Crucial Data Extract, Form HCFA-519E
- 14D Home Health Agency Survey and Deficiencies Report, Form HCFA-1572
- 14H Outpatient Physical Therapy Survey Report - Crucial Data Extract, Form HCFA-1893E
- 14I End-Stage Renal Disease Survey Report - Crucial Data Extract, Form HCFA-3427E
- 14J Rural Health Clinic Survey Report - Crucial Data Extract, Form HCFA-30E
- 14K Intermediate Care Facility-Mentally Retarded Survey Report-Crucial Data Extract Form HCFA-3070B(E)
- 14L Ambulatory Surgical Center Report--Crucial Data Extract, Form HCFA-378E
- 14M Therapist in Independent Practice--Crucial Data Extract, Form HCFA-3042E
- 14O Hospice Survey Report--Crucial Data Extract, Form HCFA-449E
- 15 Regional Office Request for Additional Information, Form HCFA-1666
- | 16 Deleted
- 21 Request For Certification to Provide Outpatient Physical Therapy and/or Speech Pathology Services
- 22 Physical Therapist in Independent Practice Request for Certification, Form HCFA-262
- 23 Model Letter Notifying Physical Therapists of a Scheduled Survey of Their Office(s) After Eligibility Determined
- 24 Model Letter to Ineligible Physical Therapists Requesting to Participate as a Physical Therapist in Independent Practice
- 25 Model Letter to Rural Health Clinic Regarding Scheduling a Survey
- 26 Model Letter To Rural Health Clinic Ineligible to Participate
- 27 Model Letter to Previously Approved Facility Requesting Approval to Expand or Add a New ESRD Service

**Exhibit 16, Model Letter to Psychiatric Hospital, Pages 9-48 and 9-49, are deleted. Pages 9-47 (Exhibit 15) and 9-50 (Exhibit 21) are available in printed (hardcopy) format only.**